

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Requests for Review of	)	Funding Year: 2017
Decisions of the)	
Universal Service Administrator by	)	Funding Request Numbers: 1799113684 (IA),
	)	1799113630 (IC), 1799097609 (IA),
Consortio Colegios Católicos	)	1799097962 (IC)
Arquidiócesis de San Juan)	
	)	FCC Form 471 Numbers: 171050030,
	)	171049992, 171043183, 171043331
)	
	)	FCC Form 470 Numbers: 170075364
)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism)	

ATT: Telecommunications Access Policy Division, Wireline Competition Bureau

REQUEST FOR REVIEW AND/OR WAIVER

Consortio Colegios Católicos Arquidiócesis de San Juan, on behalf of itself and its members (“Consortium”), through counsel and pursuant to Section 54.719(b) of the Federal Communications Commission’s (“FCC” or “Commission”) rules,¹ hereby petitions the Commission’s Wireline Competition Bureau for review of adverse decisions by the Universal Service Administrative Company (“USAC”) with respect to the above-referenced Funding Request Numbers (“FRNs”) for Funding Year 2017 (“FY2017”) filed by the Consortium. In the alternative, the Consortium respectfully requests a waiver of the relevant Commissions rules to avoid an unfair and unduly burdensome result that threatens the educational opportunity of many

¹ 47 C.F.R. § 54.719(b).

students in Puerto Rico.²

As explained in this Request for Review, the Consortium complied with the FCC requirement that applicants conduct a fair and open competitive bidding process. However, USAC's actions is causing tremendous hardship to private schools in Puerto Rico as residents and businesses attempt to recover from one of the deadliest and most destructive storms in the history of the United States.

I. BACKGROUND

On March 25, 2017, the Consortium filed FCC Form 470 No. 170075364 seeking bids for E-Rate goods and services for its members, which are private Catholic schools in Puerto Rico. As part of the competitive bidding process, the Consortium met with all interested bidders to afford them an opportunity to ask any questions. During the meetings, the Consortium informed all interested bidders that a successful bidder was required to have a local presence in Puerto Rico.

The Consortium held meetings with the following interested bidders: Aerohive Networks (via conference call), Avant Technologies, Everyday Data, Intelligent Solutions, Smart Networks and Smart Technologies.³ With respect to Aerohive Networks, the Consortium scheduled an in-person meeting for April 4, 2017, but the Aerohive Networks representative failed to show. However, during a follow-up conference call with Aerohive Networks, the Consortium explained the local presence requirement and the company responded that it did not have a presence in

² 47 C.F.R. § 1.3.

³ The sign-in sheets at Exhibit 1 to the Consortium's USAC Appeal indicate the meetings held with the prospective bidders. *See* Appeal by Consorcio Colegios Católicos Arquidiócesis de San Juan (BEN 157738) to the Universal Service Administrative Company, filed April 11, 2018 (attached) (hereinafter, "Consortium's USAC Appeal").

Puerto Rico.⁴ On April 20, 2017, the Consortium had another conference call with Aerohive Networks to further discuss the matter, and the company indicated it did not have a solution in the near future for having local presence in Puerto Rico.

Aerohive Networks did not submit a proposal under its name, but asked a company called Skytec to submit, on Aerohive Networks' behalf, a proposal for Internal Connections equipment made by Aerohive Networks. The document submitted by Skytec is a one-page list of equipment and its cost. This Request for Review refers to this document as the "Aerohive/Skytec Equipment Cost Estimate."⁵

The Consortium received bid proposals from Smart Technologies, Smart Networks, Everyday Data, Avant Technologies, WorldNet, Intelligent Solutions, Nevesem and Sprint, as well as the Aerohive/Skytec Equipment Cost Estimate. The WorldNet and Intelligent Solutions bid proposals were not scored because the Consortium's evaluating committee discovered that Intelligent Solutions and WorldNet were the same company, a material fact that neither bid proposal disclosed, and which would have compromised the integrity of the competitive bidding process had the Consortium not disqualified. The Nevesem bid proposal was not scored because the company withdrew its proposal. The Sprint bid proposal was not scored because it offered to provide voice services only, which was not part of the Form 470 services for which the Consortium sought bids. The Aerohive/Skytec Equipment Cost Estimate was reviewed but not scored because the real party in interest (Aerohive Networks) did not have a presence in Puerto Rico and the one-pager was deficient in other respects. Of the four *qualified* bids (Smart

⁴ As documented in Exhibit 2 to the Consortium's USAC Appeal, on April 19, 2017, the Consortium also informed Aerohive Networks, in writing, of the local presence requirement.

⁵ Because it was Aerohive Networks who: (a) expressed an interest in the Consortium's FCC Form 470, (b) held conversations with the Consortium, and (c) discussed with the Consortium the fact that Aerohive Networks did not have a presence in Puerto Rico, the Consortium referred in its internal documents (including its bid scoring worksheet) to the one-page equipment list as the "Aerohive proposal."

Technologies, Smart Networks, Everyday Data, and Avant Technologies), the Consortium selected Smart Technologies as the most cost-effective bid and filed the following applications with USAC on May 10, 2017: FCC Form 471 No. 171043183 (FRN 1799097609) seeking support for Internet access and FCC Form 471 No. 171043331 (FRN 1799097962) seeking support for internal connections.

On June 2, 2017, a USAC representative initiated contact with the Consortium to “correspond/answer questions regarding your E-rate application(s)” but no questions were presented at that time.⁶ On August 23, 2017, another USAC representative sent an email to the Consortium indicating that she had sent “follow-up questions via EPC based on the documentation BEN 16020045 has submitted to date.”⁷ On September 6, 2017, the Consortium provided copies of certain emails that USAC had requested and alerted USAC that Consortium personnel might be unreachable for some time due to Hurricane Irma.⁸

On September 7, 2017, Hurricane Irma, a Category 5 hurricane that reached sustained winds of 185 mph winds for 37 hours, caused widespread flooding, forced thousands of people into shelters, and left more than half of Puerto Rico without power. On September 20, 2017, Hurricane Maria made landfall in Puerto Rico with sustained winds of 155 miles per hour, causing catastrophic flooding, destroying homes, and leaving the island with no power, no water, and no communications services. Consortium schools suffered significant and direct damage as result of this catastrophic event. The magnitude of the damage was such that FCC Chairman Ajit

⁶ Email from Christine Wittrien, Case Management Associate, USAC, to Julio E. Rodriguez, Consorcio Colegios Catolicos Arquidiocesis de San Juan, re: “BEN 16020045, Consorcio Colegios Catolicos Arquidiocesis de San Juan,” June 2, 2017.

⁷ Email from Natasha Corlette, Case Management Special Compliance, USAC, to Julio E. Rodriguez, Consorcio Colegios Catolicos Arquidiocesis de San Juan, re: “BEN 16020045, Consorcio Colegios Catolicos Arquidiocesis de San Juan,” August 23, 2017.

⁸ Email from Julio E. Rodríguez, E-Rate Assistant, Consorcio Colegios Catolicos Arquidiocesis de San Juan, to Natasha Corlette, Case Management Special Compliance, USAC, re: “BEN 16020045, Consorcio Colegios Catolicos Arquidiocesis de San Juan,” September 6, 2017.

Pai has visited Puerto Rico twice since the hurricanes and initiated a rulemaking proceeding to establish a new *Uniendo a Puerto Rico Fund* to provide for additional monies to assist with the restoration, hardening and expansion of broadband service in Puerto Rico.⁹

On October 17, 2017, USAC informed the Consortium that it had sent an Intent to Deny Notification via EPC.¹⁰ The Intent to Deny Notification is enclosed at Exhibit 3 to the Consortium's USAC Appeal. On November 27, 2017, the Consortium responded to the Intent to Deny Notification. The response to the Intent to Deny Notification is enclosed at Exhibit 4 to the Consortium's USAC Appeal.

As result of the Commission's *Hurricane Relief Order*,¹¹ the Consortium filed the following two applications on December 13, 2017 (hereinafter "Hurricane Relief Applications"): FCC Form 471 No. 171050030 (FRN 1799113684) for Internet Access, and FCC Form 471 No. 171049992 (FRN 1799113630) for internal connections. USAC did not ask questions or request documentation regarding the Hurricane Relief Applications.¹²

On February 1, 2018, a USAC representative sent an email to the Consortium indicating that the Form 471 Applications would be denied "*due to the competitive bidding violations identified during the Selective Review, as previously stated: App# 171043183 FRN 1799097868,*

⁹ *The Uniendo a Puerto Rico Fund and the Connect USVI Fund, Connect America Fund, ETC Annual Reports and Certifications*, WC Docket Nos. 18-143, 10-90 and 14-58, FCC 18-57, Order and Notice of Proposed Rulemaking (rel. May 29, 2018).

¹⁰ Email from Natasha Corlette, Case Management Special Compliance, USAC, to Julio E. Rodriguez, Consorcio Colegios Catolicos Arquidiocesis de San Juan, re: "BEN 16020045, Consorcio Colegios Catolicos Arquidiocesis de San Juan," October 17, 2017.

¹¹ Schools and Libraries Universal Service Support Mechanism, FCC 17-139, Order, 32 FCC Rcd 9538 (2017) ("Hurricane Relief Order"). The Commission issued the *Hurricane Relief Order* to provide relief for schools and libraries located in counties designated by the Federal Emergency Management Agency ("FEMA") as eligible for individual disaster assistance. The special relief was intended to assist schools devastated by the hurricanes to help restore services and equipment to pre-hurricane levels. FEMA designated all of Puerto Rico as eligible for individual disaster assistance.

¹² To the best of the Consortium's knowledge, the Consortium is the only Puerto Rico applicant whose hurricane relief applications were denied.

*App# 171043183 FRN 1799097609 and App# 171043331 FRN 1799097962 – denied for not considering all bids and, for failure to provide documentation of evidence that bidders were made aware of the minimum requirements needed for their bid to be considered for evaluation.”*¹³ EPC reflects that the FCDL denying these applications is dated February 10, 2018. To this day, the Consortium has not received copy of the FCDLs denying these applications. On March 16, 2018, USAC denied the Hurricane Relief Applications. To this day, the Consortium has not received copy of the FCDLs denying the Hurricane Relief Applications.

On April 11, 2018, the Consortium filed an appeal with USAC. Copy of the Consortium’s USAC appeal is attached hereto. On August 1, 2018, USAC issued a Revised Funding Commitment Decision Letter denying the Consortium’s appeal.¹⁴ Copy of the Revised Funding Commitment Decision Letter is attached hereto. The Revised Funding Commitment Decision Letter states:

Based on the documentation provided Consorcio Colegios Catolicos Arquidiocesis de San Juan (the Consortium) during the Selective Review, the Consortium did not consider all of the bids received in response to the FCC Form 470 and/or RFP during your bid evaluation process. The consortium bid scoring worksheet did not contain a score for each vendor that provided a response. Therefore, the FRN was denied because the winning vendor was not selected in accordance with the Consortium bid evaluation process. Additionally, FCC Rules require applicants to retain all documentation for ten years regarding the competitive bidding process. The FRN was also denied for failure to provide documentation of evidence that bidders were made aware of the minimum requirements needed for their bid to be considered for evaluation. In your appeal, you did not demonstrate that USAC’s decision was incorrect. Consequently, your appeal is denied. FCC rules require that the schools, libraries, and any consortium that includes schools or libraries shall retain all documents related to the application for, receipt, and delivery of supported services for at least 10 years

¹³ Email from Natasha Corlette, Case Management Special Compliance, USAC, to Raúl R. Nieves Rivera, Consorcio Colegios Catolicos Arquidiocesis de San Juan, re: “Question about Internet Access,” February 1, 2018.

¹⁴ USAC’s Revised Funding Commitment Decision Letter specifically refers to the FRNs in the Hurricane Relief Applications (FRNs 1799113684 and 1799113630) but not the original FRNs filed on May 10, 2017 (FRNs 1799097609 and 1799097962). Nevertheless, the Consortium believes that USAC’s decision on appeal dated August 1, 2018, was intended to deny all the Consortium’s FY2017 applications and, to preserve its rights, the Consortium includes all FY2017 FRNs in this Request for Review.

after the latter of the last day of the applicable funding year, or the service delivery deadline for the funding request. Any document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. See 47 C.F.R. sec. 54.516(a)(1). Service providers shall retain documents related to the delivery of supported services for at least 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. See 47 C.F.R. sec. 54.516(a)(2). Schools, libraries, consortia, and service providers are further required to produce such records upon request of any representative (including any auditor) appointed by a state education department, the Administrator, the FCC or any local, state or federal agency with jurisdiction over the entity. See 47 C.F.R. sec. 54.516(b). FCC rules require that, except under limited circumstances, an eligible school, library and consortium that includes an eligible school or library shall seek competitive bids for all services eligible for support. See 47 C.F.R. sec. 54.503(b). Applicants are required to carefully consider all bids received, with price being the primary factor, before selecting a vendor, entering into a legally binding agreement or signing a contract, and signing and submitting an FCC Form 471. See 47 C.F.R. secs. 54.511(a), 54.503(c)(2)(ii)(B), 54.504(a)(1)(ix). The FCC also noted that several additional factors should be considered by the applicant in determining which service provider meets their needs most effectively and efficiently. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 97-157 para. 481 (rel. May 8, 1997). These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd 10095, FCC 97-246 para. 9 (rel. Jul. 10, 1997).

USAC erred when both when it denied the original applications and when it denied the appeal on August 1, 2018. The Consortium followed the Commission's competitive bidding rules did not engage in fraud, waste or abuse. The Consortium respectfully requests the Commission reverse USAC's action and instruct USAC reinstate the applications for further processing.

III. THE CONSORTIUM REVIEWED AND CONSIDERED ALL THE QUALIFIED BIDS RECEIVED IN RESPONSE TO THE FCC FORM 470 AND SELECTED THE MOST COST-EFFECTIVE BID FROM THE QUALIFIED BIDS.

USAC claims that the Consortium did not consider all the bids received, but it fails to explain why the manner in which the Consortium handled certain proposals was so incorrect that

it amounted to a violation of the competitive bidding rules. Nevertheless, as explained in detail below, the Consortium believes that it acted in accordance with the Commission's rules.

Intelligent Solutions and WorldNet Proposals. Far from being a violation of the competitive bidding rules, the disqualification of the proposals submitted by Intelligent Solutions and WorldNet helped preserve the integrity, fairness and openness of the competitive process. As explained in detail in the appeal to USAC, the Consortium's Evaluating Committee met on May 2, 2017, to evaluate the bids received. The Evaluating Committee noticed that Intelligent Solutions and WorldNet claimed to have the same customers. Upon further investigation, the Evaluating Committee determined that Intelligent Solutions and WorldNet were the same company. The Evaluating Committee determined that the omission of this information was material because – had it not been discovered through the Consortium's own due diligence – the persons behind these companies would have had two opportunities to bid for the same contract while the other bidders only had one opportunity. Having determined that the material omission was dishonest and/or unfair, it disqualified these two proposals. Had the Evaluating Committee ignored this information and proceeded to afford the same group the benefit of two opportunities to bid for the same contract to the detriment of other bidders, the Consortium would have been in violation of the FCC requirement that applicants conduct a fair and open competitive bidding process.

It appears that USAC's main concern is that the Consortium's scoring worksheet, which is enclosed at Exhibit 5 to the Consortium's USAC Appeal, reflects a zero score for the proposals by Intelligent Solutions and WorldNet and the Aerohive/Skytec Equipment Cost Estimate. Ironically, it was entirely appropriate for the Consortium not to score these

submissions because doing so would have been a violation of the FCC's rules. The Consortium's bid scoring worksheet contained a score for all *qualified* bid proposals.

Aerohive/Skytec Equipment Cost Estimate. The Consortium reviewed the Aerohive/Skytec Equipment Cost Estimate but did not score it because – at least as of the time of the competitive bidding process – the real entity in interest (Aerohive Networks) did not have a presence in Puerto Rico, a requirement that was explained to all interested bidders including Aerohive. Submitting its cost estimate through a third party does not cure this defect. Additionally, the Aerohive/Skytec Equipment Cost Estimate was defective because it failed to include: (a) an explanation of whether Aerohive or Skytec would be responsible for delivering, installing, testing, and maintaining the equipment; (b) a description of Skytec's experience as a provider of equipment and related services under the E-Rate program; (c) a list of customer references; or (d) the cost of the equipment for each school that is a Consortium member. Thus, it was entirely appropriate not to score this submission. Again, the Consortium's bid scoring worksheet contained a score for all *qualified* bid proposals.

Nevesem Proposal. Nevesem withdrew its proposal and, therefore, it was not scored. The Consortium assumes that USAC has no objection to the Consortium's decision not to score this proposal.

Sprint Proposal. Sprint's proposal was not scored because it proposed to offer voice service only, and voice service was not part of the FCC Form 470 services for which the Consortium sought bids. The Consortium assumes that USAC has no objection to the Consortium's decision not to score this proposal.

Having eliminated the non-qualified proposals, the remaining qualified and responsive proposals were the ones submitted by Smart Technologies, Smart Networks, Everyday Data and

Avant Technologies. The Consortium's bid scoring worksheet contained a score for each of the vendors that provided a qualified bid proposal and the winning vendor was selected in accordance with the Consortium's bid evaluation process. USAC states in its decision on appeal that, "The consortium bid scoring worksheet did not contain a score for each vendor that provided a response." However, nothing in the Commission's rules requires applicants to spend resources scoring proposals that, upon being reviewed and considered, are found to be incomplete in material way for failure to meet the minimum requirements. This approach does not amount to a violation of the Commission's rules.

IV. THE CONSORTIUM RETAINED ALL DOCUMENTATION RELATED TO THE FY2017 COMPETITIVE BIDDING PROCESS IN COMPLIANCE WITH THE FCC RULES.

In its decision on appeal, USAC states: "The FRN was also denied for failure to provide documentation of evidence that bidders were made aware of the minimum requirements needed for their bids to be considered for evaluation."¹⁵ This is plainly incorrect. There is no document concerning the FY2017 applications that: (a) the Consortium was required to maintain, (b) USAC requested, and (c) the Consortium purposely did not produce. The Consortium retained all documentation that it generated related to the FY2017 competitive bidding process and it turned it over to USAC.

Prior interactions with USAC indicate that USAC's initial issue with the document retention requirement related to the Aerohive/Skytec Equipment Cost Estimate. As explained in the appeal to USAC, the Consortium inadvertently neglected to provide copy of the Aerohive/Skytec Equipment Cost Estimate to USAC during the PIA review process.¹⁶ USAC's Intent to Deny Notification stated that the Aerohive/Skytec Equipment Cost Estimate had not

¹⁵ USAC Revised Funding Commitment Decision Letter, pp. 5 and 7.

¹⁶ Consortium's USAC Appeal, pp. 6-7.

been submitted to USAC. In its response, the Consortium explained that exclusion of the Aerohive/Skytec Equipment Cost Estimate had been an unintentional error and immediately provided copy of the document to USAC. Having settled that matter, USAC now attempts to justify the denial of the applications by treating its dislike for the Consortium's requirement that a successful bidder had to have a local presence in Puerto Rico as a "failure to provide documentation." The real issue here is not one of document retention, but of USAC not being comfortable with the Consortium's local requirement.

Although the Consortium did not include a specific provision in its Form 470 regarding the local presence requirement, the Consortium met with all interested bidders and specifically informed them of the requirement. In the case of Aerohive, as documented at Exhibit 2 to the Consortium's USAC Appeal, the Consortium informed Aerohive via email dated April 19, 2017 of the need to have a local presence. This email was provided to USAC and it is irrefutable evidence that Aerohive was informed of this requirement. Furthermore, on April 20, 2017, the Consortium had a telephone conversation with the vendor to discuss whether the vendor could partner with local providers as a way to meet the Consortium's needs. Thus, Aerohive knew about the local presence requirement and it still submitted a proposal, albeit through a third-party and without disclosure of that fact to the Consortium.

It would be virtually impossible for the Consortium to obtain cost-effective and reliable E-Rate goods and services from a service provider without at least some presence in Puerto Rico. The Consortium, its member schools, teachers, and students are in Puerto Rico. Puerto Rico is located approximately 1,032 miles across the Atlantic Ocean from the closest city in the continental United States. Any service provider must be able to deliver, install, test, and maintain equipment in Puerto Rico. Similarly, on-site service outages require that any service

provider to the Consortium members dispatch technicians to the schools in Puerto Rico to address the problem. This cannot be accomplished if the service provider does not have a presence in the same island in which the applicant is located.

It would not be cost-effective for the Consortium to do business with a service provider that has no presence in Puerto Rico. Such a provider would have to build into its proposal the cost of flying personnel from the continental United States to Puerto Rico every time equipment must be delivered, installed, tested, maintained or repaired at any of the Consortium's 36 schools. Similarly, such a provider would have to build into its proposal the cost of shipping equipment – whether by air or ship – from the continental United States to Puerto Rico, every time equipment must be delivered, installed or replaced at any of the Consortium's 36 schools. This would undoubtedly drive up the cost of goods and services for which E-Rate funds would be requested, *which is the exact opposite of the goal of the E-Rate program of helping schools and libraries procure the most cost-effective services.*

Doing business with a service provider that has no presence in Puerto Rico would also be unduly burdensome for the Consortium. Notably, the Consortium schools would have to endure significant service delays while equipment is shipped to the island and service provider employees are flown to Puerto Rico whenever the equipment is installed, tested, maintained and repaired. This is even more of a concern in Puerto Rico, which as the Commission and USAC are aware, is subject to frequent and devastating hurricanes and tropical storms.

In sum, the Consortium complied with the FCC requirement that applicants conduct a fair and open competitive bidding process. The competitive bidding process was fair and open because the Consortium submitted the relevant FCC Forms 470 requesting discounts for E-Rate eligible services, described the requested services with sufficient specificity to enable potential

service providers to submit bids, treated all potential bidders equally and fairly during the bidding process, did not engage in any of the activities or behaviors set forth in Section 54.503(a) of the FCC's rules presumed to result in a competitive bidding process that is not fair or open, waited the requisite 28 days before selecting a provider, and did not solicit or accept any gift, gratuity, favor, entertainment, loan, or any other thing of value from a service provider. In other words, the Consortium did everything it is required to do to prevent waste, fraud and abuse. Having followed all key program requirements, the Commission should not allow such a harsh outcome to prevail.

V. IF THE COMMISSION FINDS THE CONSORTIUM'S SELECTION PROCESS WAS DEFICIENT, IT RESPECTFULLY REQUESTS A LIMITED WAIVER OF THE COMMISSION'S RULES.

The Commission's rules provide that the Commission may waive any provision of its rules "if good cause therefor is shown."¹⁷ The Commission "may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest."¹⁸ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁹

The Consortium has explained in detail the reasons for the local presence requirement, all of which are reasonable. Common sense dictates that if a restrictive requirement is not included in the FCC Form 470 or in an RFP, this is more likely to result in a larger number of bid proposals, not less. Thus, it defies logic to take the position that failure to include the local presence requirement in the FCC Form 470 or in a separate RFP served to discourage bidders.

¹⁷ 47 C.F.R. § 1.3.

¹⁸ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990), citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

¹⁹ *Id.*

Furthermore, the Consortium ensured that all interested bidders were specifically informed of the local presence requirement.

The Consortium never attempted to favor some bidders to the detriment of others, or to engage in a scheme to violate the Commission's rules or policies. In fact, the Consortium's disqualification of the proposals submitted by Intelligent Solutions and WorldNet was specifically intended to preserve the integrity, fairness and openness of the competitive. The Consortium's interest is simply getting the best services for its members at the best possible price in compliance with the Commission's rules. A complete denial of the Consortium's FY2017 applications because the Consortium disqualified two proposals that it believed were trying to game the system is draconian to the extreme.

The Consortium represents poor children in dire need of funding. Specifically, seventy-one percent of the students served by the Consortium's schools in Puerto Rico are from households whose income is at or below 185 percent of the federal poverty guideline. These are precisely the students that the E-Rate Program is intended to assist.

Lastly, the Consortium is in desperate need of E-Rate funds, particularly after hurricanes Irma and Maria. FCC Chairman Ajit Pai, who visited Puerto Rico twice since the disasters, described the damage he saw as "unimaginable."²⁰ Participation in the E-Rate program is now more critical than ever. Denying E-Rate funds at a time when students in Puerto Rico need it the most, and in the absence of any waste, fraud or abuse on the part of the Consortium, would be devastating for the schools and students.

²⁰ FCC Statement, *Chairman Pai Meets with Officials in Puerto Rico; Wraps Up Two-Day Visit to Survey Damage and Reaffirms Commitment to Helping Restore Communications Networks as Quickly as Possible*, November 7, 2017.

VI. CONCLUSION

For the reasons stated above, the Consortium and its members respectfully request that USAC's decision be reversed and the Consortium's FY2017 applications be reinstated for further processing by USAC.

Respectfully submitted,

CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN

Ana Cortés
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October 1, 2018

Its Attorneys

Attachments

- | | |
|--------------|--|
| Attachment 1 | Appeal by Consorcio Colegios Católicos Arquidiócesis de San Juan (BEN 157738) to the Universal Service Administrative Company, filed April 11, 2018. |
| Attachment 2 | Universal Service Administrative Company's Revised Funding Commitment Decision Letter denying the Consortium's FY2017 Appeal, dated August 1, 2018. |

Attachment 1

Appeal by Consorcio Colegios Católicos Arquidiócesis de San Juan (BEN 157738)
to the Universal Service Administrative Company, filed April 11, 2018

April 11, 2018

Via E-mail: Appeals@sl.universalservice.org

Letter of Appeal
Schools and Libraries Program - Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

RE: Appeal by Consorcio Colegios Católicos Arquidiócesis de San Juan (BEN 157738)

This is an appeal by Consorcio Colegios Católicos Arquidiócesis de San Juan (“Consortium”) on behalf of itself and its members of the Universal Service Administrative Company’s (“USAC”) denial of the Consortium’s E-Rate applications for Funding Year 2017 (“FY2017”). We believe that USAC erred when it denied the applications and respectfully request this appeal be granted.

Person Who Can Most Readily Discuss This Appeal:

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Information Concerning the E-Rate Applications and Reasons for Denial:

Billed Entity Name:	Consorcio Colegios Católicos Arquidiócesis de San Juan
Billed Entity Number:	16020045
FCC Registration Number:	0025220682
Funding Year:	2017
FCC Form 470 Number:	170075364
FCC Form 471 Number:	171050030
Funding Request Number:	1799113684 (Internet access)
Original Requested Amount:	\$138,527.00
FCDL Date:	February 10, 2018
Reason for Denial:	DR1: FCC Rules require applicants to retain all documentation for ten years regarding the competitive bidding process. The FRN was denied for failure to provide documentation of evidence that bidders were made aware of the minimum requirements needed for their bid to be considered for evaluation. Therefore, this FRN is denied. DR2: Based on the documentation you provided during the Selective Review, you did not consider all of the bids received

in response to the FCC Form 470 and/or RFP during your bid evaluation process. Your bid scoring worksheet did not contain a score for each vendor that provided a response. Therefore, your FRN is being denied because the winning vendor was not selected in accordance with your bid evaluation process.

Billed Entity Name: Consorcio Colegios Católicos Arquidiócesis de San Juan
Billed Entity Number: 16020045
FCC Registration Number: 0025220682
Funding Year: 2017
FCC Form 470 Number: 170075364
FCC Form 471 Number: 171049992
Funding Request Number: 1799113630 (Internal Connections)
Original Requested Amount: \$111,917.70
FCDL Date: February 10, 2018
Reason for Denial: DR1: FCC Rules require applicants to retain all documentation for ten years regarding the competitive bidding process. The FRN was denied for failure to provide documentation of evidence that bidders were made aware of the minimum requirements needed for their bid to be considered for evaluation. Therefore, this FRN is denied. DR2: Based on the documentation you provided during the Selective Review, you did not consider all of the bids received in response to the FCC Form 470 and/or RFP during your bid evaluation process. Your bid scoring worksheet did not contain a score for each vendor that provided a response. Therefore, your FRN is being denied because the winning vendor was not selected in accordance with your bid evaluation process.

Billed Entity Name: Consorcio Colegios Católicos Arquidiócesis de San Juan
Billed Entity Number: 16020045
FCC Registration Number: 0025220682
Funding Year: 2017
FCC Form 470 Number: 170075364
FCC Form 471 Number: 171043183
Funding Request Number: 1799097609 (Internet Access)
Original Requested Amount: \$649,516.50
FCDL Date: March 16, 2018
Reason for Denial: DR1: Based on the documentation you provided during the Selective Review, you did not consider all of the bids received in response to the FCC Form 470 and/or RFP during your bid evaluation process. Your bid scoring worksheet did not contain a score for each vendor that provided a response. Therefore, your FRN is being denied because the winning vendor was not selected in accordance with your bid evaluation process. DR2: FCC Rules require applicants to retain all documentation for ten years regarding the competitive bidding process. The FRN was denied

for failure to provide documentation of evidence that bidders were made aware of the minimum requirements needed for their bid to be considered for evaluation. Therefore, this FRN is denied.

Billed Entity Name: Consorcio Colegios Católicos Arquidiócesis de San Juan
Billed Entity Number: 16020045
FCC Registration Number: 0025220682
Funding Year: 2017
FCC Form 470 Number: 170075364
FCC Form 471 Number: 171043331
Funding Request Number: 1799097962 (Internal Connections)
Original Requested Amount: \$363,312.00
FCDL Date: March 16, 2018
Reason for Denial: DR1: Based on the documentation you provided during the Selective Review, you did not consider all of the bids received in response to the FCC Form 470 and/or RFP during your bid evaluation process. Your bid scoring worksheet did not contain a score for each vendor that provided a response. Therefore, your FRN is being denied because the winning vendor was not selected in accordance with your bid evaluation process. DR2: FCC Rules require applicants to retain all documentation for ten years regarding the competitive bidding process. The FRN was denied for failure to provide documentation of evidence that bidders were made aware of the minimum requirements needed for their bid to be considered for evaluation. Therefore, this FRN is denied.

Background

On March 25, 2017, the Consortium filed FCC Form 470 No. 170075364 seeking bids for E-Rate goods and services. As part of the competitive bidding process, the Consortium met with all interested bidders and informed them, among other things, of the importance of having a presence in Puerto Rico. As documented by the sign-in sheets at Exhibit 1, the Consortium held the meetings with the following interested bidders:

- April 4, 2017: Meetings with Smart Networks, Everyday Data, Intelligent Solutions, and Smart Technologies
- April 6, 2017: Meeting with Avant Technologies
- April 20, 2017: Meeting with Aerohive Networks (conference call)
- April 25, 2017: Meeting with Smart Technologies

During these meetings and calls, all interested bidders were treated the same and provided with the same information, including the need to have a local presence. The Consortium also scheduled an in-person meeting with Aerohive Networks at 10:00 am on April 4, 2017, and the Aerohive representative failed to show. A follow-up call with Aerohive revealed that the company does not have a local presence in Puerto Rico, and the Consortium explained the local presence requirement. As documented at Exhibit 2, on April 19, 2017, the Consortium also

informed Aerohive via email of the local presence requirement. On April 20, 2017, the Consortium had a conference call with an Aerohive representative to further discuss this matter, and at that point Aerohive indicated it did not have a solution in the near future for having local presence in Puerto Rico.

Although Aerohive did not submit a proposal under its name, Aerohive asked a company called Skytec to submit, on Aerohive's behalf, a proposal for Internal Connections equipment made by Aerohive. The document submitted by Skytec is a one-page Aerohive equipment list and its cost. Because it was Aerohive who expressed an interest in the Consortium's FCC Form 470, held conversations with the Consortium, openly discussed with the Consortium the fact that Aerohive does not have a presence in Puerto Rico, the Consortium has referred in its documentation to the one-page equipment list (including its bid scoring worksheet) as the Aerohive proposal rather than Skytec proposal, but it is one and the same. For clarify, this appeal refers to this document as the Aerohive/Skytec Equipment Cost Estimate.

The Consortium received bid proposals from Smart Technologies, Smart Networks, Everyday Data, Avant Technologies, Worldnet, Intelligent Solutions, Nevesem and Sprint. The Consortium also received the Aerohive/Skytec equipment cost estimate. As explained in greater detail in this appeal:

- The Worldnet and Intelligent Solutions bid proposals were not scored because the Consortium's evaluating committee discovered that Intelligent Solutions and WorldNet were the same company, a material fact that neither bid proposal disclosed, and which would have compromised the integrity of the competitive bidding process had the Consortium not disqualified.
- The Nevesem bid proposal was not scored because the company withdrew its proposal.
- The Sprint bid proposal was not scored because it offered to provide *voice* service, which was not part of the Form 470 services for which the Consortium sought bids.
- The Aerohive/Skytec equipment cost estimate was reviewed but not scored because the real party in interest (Aerohive) does not have a presence in Puerto Rico and the one-pager was otherwise deficient in many respects.

Of the four *qualified* bids (Smart Technologies, Smart Networks, Everyday Data, and Avant Technologies), the Consortium selected Smart Technologies as the most cost-effective bid and filed the following applications with USAC:

	Date Filed	Form 471	FRN	Service
1	10-May-2017	171043331	1799097962	Internal Connections
2	10-May-2017	171043183	1799097609	Internet Access

On June 2, 2017, a USAC representative initiated contact with the Consortium to "correspond/answer questions regarding your E-rate application(s)" but no questions were

presented at that time.¹ On August 23, 2017, another USAC representative sent an email to the Consortium indicating that she had sent “follow-up questions via EPC based on the documentation BEN 16020045 has submitted to date.”² On September 6, 2017, the Consortium provided copies of certain emails that USAC had requested and alerted USAC that Consortium personnel might be unreachable for some time due to Hurricane Irma.³

On September 7, 2017, Hurricane Irma, a Category 5 hurricane that reached sustained winds of 185 mph winds for 37 hours, caused widespread flooding, forced thousands of people into shelters, and left more than half of Puerto Rico without power. On September 20, 2017, Hurricane Maria made landfall in Puerto Rico with sustained winds of 155 miles per hour, causing catastrophic flooding, destroying homes, and leaving the island with no power, no water, and no communications services. Consortium schools suffered significant and direct damage as result of this catastrophic event.

On October 17, 2017, USAC informed the Consortium that it had sent an Intent to Deny Notification via EPC.⁴ Copy of the Intent to Deny Notification is enclosed at Exhibit 3. On November 27, 2017, the Consortium responded to the Intent to Deny Notification. The response to the Intent to Deny Notification is enclosed at Exhibit 4.

On October 30, 2017, the Federal Communications Commission (FCC) issued Order 17-139 providing relief for schools and libraries located in counties designated by the Federal Emergency Management Agency (FEMA) as eligible for individual disaster assistance that certified that they had incurred substantial damage to E-Rate eligible services and equipment as result of the hurricanes. The special relief was intended to assist schools devastated by the hurricanes to help restore services and equipment to pre-hurricane levels. FEMA had designated all of Puerto Rico as eligible for individual disaster assistance. As a result of FCC Order 17-139, the Consortium filed the following two applications (hereinafter “Hurricane Relief Applications”):

	Date Filed	Form 471	FRN	Service
1	13-Dec-2017	171050030	1799113684	Internet Access
2	13-Dec-2017	171049992	1799113630	Internal Connections

¹ Email from Christine Wittrien, Case Management Associate, USAC, to Julio E. Rodriguez, Consorcio Colegios Catolicos Arquidiocesis de San Juan, re: “BEN 16020045, Consorcio Colegios Catolicos Arquidiocesis de San Juan,” June 2, 2017.

² Email from Natasha Corlette, Case Management Special Compliance, USAC, to Julio E. Rodriguez, Consorcio Colegios Catolicos Arquidiocesis de San Juan, re: “BEN 16020045, Consorcio Colegios Catolicos Arquidiocesis de San Juan,” August 23, 2017.

³ Email from Julio E. Rodríguez, E-Rate Assistant, Consorcio Colegios Catolicos Arquidiocesis de San Juan, to Natasha Corlette, Case Management Special Compliance, USAC, re: “BEN 16020045, Consorcio Colegios Catolicos Arquidiocesis de San Juan,” September 6, 2017.

⁴ Email from Natasha Corlette, Case Management Special Compliance, USAC, to Julio E. Rodriguez, Consorcio Colegios Catolicos Arquidiocesis de San Juan, re: “BEN 16020045, Consorcio Colegios Catolicos Arquidiocesis de San Juan,” October 17, 2017.

USAC did not ask questions or request documentation regarding the Hurricane Relief Applications. To the best of the Consortium's knowledge, the Consortium is the only Puerto Rico applicant whose hurricane relief applications were denied.

On February 1, 2018, a USAC representative sent an email to the Consortium indicating that the Form 471 Applications filed in May 2017 would be denied *“due to the competitive bidding violations identified during the Selective Review, as previously stated: App# 171043183 FRN 1799097868, App# 171043183 FRN 1799097609 and App# 171043331 FRN 1799097962 – denied for not considering all bids and, for failure to provide documentation of evidence that bidders were made aware of the minimum requirements needed for their bid to be considered for evaluation.”*⁵ EPC reflects that the FCDL denying these applications is dated February 10, 2018. However, to this day, the Consortium has not received copy of the FCDLs denying these applications.

On March 16, 2018, USAC denied the Hurricane Relief Applications. To this day, the Consortium has not received copy of the FCDLs denying the Hurricane Relief Applications.

Reasons for Appeal

Below the Consortium addresses each of the allegations by USAC.

Allegation #1: *“FCC Rules require applicants to retain all documentation for ten years regarding the competitive bidding process. The FRN was denied for failure to provide documentation of evidence that bidders were made aware of the minimum requirements needed for their bid to be considered for evaluation. Therefore, this FRN is denied.”*

Record Retention

The Consortium retained all documentation related to the FY2017 competitive bidding process in compliance with the FCC rules. Furthermore, there is no document concerning the FY2017 applications that: (a) the Consortium was required to maintain, (b) USAC requested, and (c) the Consortium purposely did not produce. However, the Consortium takes this opportunity to clarify an issue in its interactions with USAC that may have caused an incorrect impression.

As previously explained, Aerohive asked a company called Skytec to submit, on Aerohive's behalf, a proposal for Internal Connections equipment made by Aerohive (the Aerohive/Skytec Equipment Cost Estimate). During the PIA review process, the Consortium inadvertently neglected to provide copy of the Aerohive/Skytec Equipment Cost Estimate. USAC's Intent to Deny Notification stated that the “Skytec proposal” had not been evaluated or submitted to USAC. In its Response, the Consortium explained that exclusion of the Aerohive/Skytec Equipment Cost Estimate had been an unintentional clerical error and provided copy of the document. For avoidance of any misunderstanding, the Consortium should have also clarified at that point that the “Aerohive” entry in the Consortium's bid scoring worksheet refers to the

⁵ Email from Natasha Corlette, Case Management Special Compliance, USAC, to Raúl R. Nieves Rivera, Consorcio Colegios Catolicos Arquidiocesis de San Juan, re: “Question about Internet Access,” February 1, 2018.

Aerohive/Skytec Equipment Cost Estimate. But the Consortium has turned over all documents that USAC has requested regarding the competitive bidding process.

Minimum Requirements

USAC states that the FRN was denied “for failure to provide documentation of evidence that bidders were made aware of the minimum requirements needed for their bid to be considered for evaluation.” The Consortium assumes, but is not certain, that USAC may be referring to the following statement included in the Intent to Deny Notification regarding FRNs 1799097609 and 1799097868 in FCC Form 471 No. 171043183 and FRN 1799097962 in FCC Form 471 No. 171043331: “[y]ou did not make bidders aware of the minimum requirements needed for their bid to be considered for evaluation. Aerohive was disqualified due to not having a local presence. However, the “local presence” requirement was not posted on the 470 and/or RFP.” As explained below, if this assumption is correct, USAC unfairly denied the applications for several reasons.

1. It would be virtually impossible for the Consortium to obtain cost-effective and reliable E-Rate goods and services from a service provider without at least some presence in Puerto Rico. The Consortium, its member schools, teachers, and students are in Puerto Rico. Puerto Rico is an island located approximately 1,032 miles across the Atlantic Ocean from the closest city in the continental United States. Any communications service provider to the Consortium members must be able to deliver, install, test, and maintain equipment in Puerto Rico. Similarly, on-site service outages require that any service provider to the Consortium members dispatch technicians to the schools in Puerto Rico to address the problem. This cannot be accomplished if the service provider does not have a presence in the same island in which the applicant is located. It makes sense for E-Rate applicants in the continental U.S. to specify to prospective bidders if they will not consider bids from service providers that do not have a presence in the market in which the applicants are located. This is because such applicants can often obtain service from providers that, although located in different markets, cities, or even states, can readily dispatch employees and equipment to the schools to fulfil their obligations under the program.⁶ But this is not the case for the Consortium due to Puerto Rico’s geographic location.

2. Doing business with a service provider that has no presence in Puerto Rico would not be cost-effective. A provider with no presence in Puerto Rico would have to build into its proposal the cost of flying personnel from the continental United States to Puerto Rico every time equipment must be delivered, installed, tested, maintained or repaired at any of the Consortium’s 36 schools. Similarly, such service provider would have to build into its proposal the cost of shipping equipment – whether by air or ship – from the continental United States to Puerto Rico, every time equipment must be delivered, installed or replaced at any of the Consortium’s 36 schools. This would drive up the cost of goods and services for which E-Rate funds would be requested, which is the exact opposite of the goal of the E-Rate program of helping schools and libraries procure the most cost-effective services.

⁶ For example, a service provider in the Tampa (FL) market could very well provide E-Rate goods and services to schools located in the Miami (FL) market because, although they are in different markets, they are in sufficient proximity that the service provider, depending on its size and footprint, can fulfil its commitments.

3. Doing business with a service provider that has no presence in Puerto Rico would be extremely burdensome for the Consortium and its members. Notably, the Consortium schools would have to endure significant service delays while equipment is shipped to the island and service provider employees are flown to Puerto Rico whenever the equipment is installed, tested, maintained and repaired. This is even more of a concern in Puerto Rico, which as the FCC and USAC know, is subject to frequent and devastating hurricanes and tropical storms. Additionally, most people in Puerto Rico are native Spanish speakers who are not sufficiently fluent in English, making communications between such providers and Consortium school personnel very inefficient and difficult.

4. Although the Consortium did not include a specific provision regarding the importance of having a local presence, the Consortium met with all interested bidders and specifically informed them of the need to have a presence in Puerto Rico. In the case of Aerohive, as documented at Exhibit 2, on April 19, 2017, the Consortium informed Aerohive via email of the need to have a local presence, and on April 20, 2017, the Consortium had a telephone conversation with the vendor to discuss whether the vendor could partner with local providers. Thus, Aerohive knew about the local presence requirement and it still submitted a proposal, albeit deficient.

5. The Consortium complied with the FCC requirement that applicants conduct a *fair and open competitive bidding process*. The competitive bidding process was fair and open because the Consortium:

- (a) submitted for posting the relevant FCC Forms 470 requesting discounts for E-rate eligible services;
- (b) described the requested services with sufficient specificity to enable potential service providers to submit bids;
- (c) treated all potential bidders equally and fairly during the bidding process;
- (d) did not engage in any of the activities or behaviors set forth in Section 54.503(a) of the FCC's rules presumed to result in a competitive bidding process that is not fair or open;
- (e) waited the requisite 28 days before selecting a provider; and
- (f) did not solicit or accept any gift, gratuity, favor, entertainment, loan, or any other thing of value from a service provider.

In other words, the Consortium did everything it is required to do to prevent waste, fraud and abuse. For the reasons stated above, USAC should not punish the Consortium and its student population, which have been devastated by two of the worst hurricanes anywhere, for not including a provision in its FCC Form 471s regarding the local presence of prospective service providers.

Allegation #2: "Based on the documentation you provided during the Selective Review, you did not consider all of the bids received in response to the FCC Form 470 and/or RFP during your bid evaluation process. Your bid scoring worksheet did not contain a score for each vendor that provided a response. Therefore, your FRN is being denied because the winning vendor was not selected in accordance with your bid evaluation process."

1. The Consortium reviewed and considered all the bids received in response to the FCC Form 470 and selected the most cost-effective bid from the qualified bids.

As previously stated, the Consortium received bid proposals from Smart Technologies, Smart Networks, Everyday Data, Avant Technologies, Worldnet, Intelligent Solutions, Nevesem and Sprint. The Consortium also received the Aerohive/Skytec equipment cost estimate.

Intelligent Solutions and WorldNet. The Consortium's Evaluating Committee met on May 2, 2017, to evaluate the bids received. At the meeting, the Evaluating Committee noticed that Intelligent Solutions and WorldNet claimed to have the same customers. Upon further investigation, the Evaluating Committee discovered that Intelligent Solutions and WorldNet are the same company. The omission of this information was material because – had it not been discovered through the Consortium's own due diligence – the persons behind these companies would have had two opportunities to bid for the same contract while the other bidders only had one opportunity. The Evaluating Committee determined that this material omission was dishonest and/or unfair, and disqualified the bid proposals. Had the Evaluating Committee ignored its finding and proceeded to afford the same group the benefit of two opportunities to bid for the same contract to the detriment of other bidders, the Consortium would have been in violation of the FCC requirement that applicants conduct a fair and open competitive bidding process. Thus, far from being a deficiency in the competitive bidding process, the disqualification of these proposals by the Consortium helped preserve the integrity, fairness and openness of the competitive process.

Nevesem. This vendor withdrew its proposal and, therefore, it was not scored.

Sprint. This vendor's proposal was not scored because it proposed to offer voice service only, and voice service was not part of the FCC Form 470 services for which the Consortium sought bids.

Aerohive/Skytec Equipment Cost Estimate. The equipment cost estimate by Aerohive/Skytec was reviewed but not scored because – at least as of the time of the competitive bidding process – the real entity in interest (Aerohive) did not have a presence in Puerto Rico, a requirement that was explained to all interested bidders including Aerohive. Filtering the cost estimate through a third party does not cure this defect. Furthermore, the Aerohive/Skytec Equipment Cost Estimate was defective because it failed to address some of the most basic information. For instance, the Aerohive/Skytec Equipment Cost Estimate does not include: (a) an explanation of whether Aerohive or Skytec would be responsible for delivering, installing, testing, and maintaining the equipment; (b) a description of Skytec's experience as a provider of equipment and related services under the E-Rate program; (c) a list of customer references; or (d) the cost of the equipment for each school that is a Consortium member.

2. The Consortium's bid scoring worksheet contained a score for each vendor that provided a qualified bid proposal and the winning vendor was selected in accordance with the Consortium's bid evaluation process.

It appears that USAC's main concern is that the Consortium's scoring worksheet, which is enclosed at Exhibit 5, reflects a zero score for the proposals by Intelligent Solutions and WorldNet and the Aerohive/Skytec Equipment Cost Estimate. However, as previously explained, the Consortium properly decided not to score these submissions. However, the Consortium's bid scoring worksheet did contain a score for all of the *qualified* bid proposals.

Exceptional Circumstances

The Consortium is committed to curbing fraud, waste, and abuse in the E-Rate Program and believes that it has complied with all critical program requirements. We urge USAC to keep in mind the following three factors as it reviews the responses provided herein.

First, the Consortium has been successful in conducting a fair and open competitive bidding process. Specifically, the Consortium carefully considered all bids and selected the most cost-effective service offering, using price as the primary factor in determining whether which bid was the most cost-effective. The Consortium has always acted in good faith and has never acted to favor some bidders to the detriment of others, or to engage in a scheme to violate the Commission's rules or policies.

Second, the Consortium represents poor children in dire need of funding. Specifically, seventy-one (71) percent of the students served by the Consortium's schools in Puerto Rico are from households whose income is at or below 185 percent of the federal poverty guideline. These are precisely the students that the E-Rate Program is intended to assist.

Lastly, the Consortium is in dire need of E-Rate funds, particularly after hurricanes Irma and Maria. FCC Chairman Ajit Pai, who visited Puerto Rico during the aftermath, described the damage he saw as "unimaginable." Several of our schools, as well as the families of our students, suffered considerable losses as a result of these disasters. This means that participation in the E-Rate program is now more critical than ever. Denying E-Rate funds at a time when students in Puerto Rico need it the most, and in the absence of any waste, fraud or abuse on the part of the Consortium, would be devastating for the schools and students.

Respectfully submitted,

CONSORCIO COLEGIOS CATÓLICOS ARQUIDIOCESIS DE SAN JUAN



By: Ana Cortés
Superintendent

Exhibits

Exhibit 1	Consortium sign-in sheets for meetings with interested bidders
Exhibit 2	Consortium Emails with Aerohive Networks dated April 19, 2017
Exhibit 3	USAC Intent to Deny Notification
Exhibit 4	Consortium Response to USAC's Intent to Deny Notification
Exhibit 5	Consortium Scoring Worksheet

Exhibit 1

Consortium sign-in sheets for meetings with interested bidders

WordNet

ndiente

ASISTENTES/FIRMA

- *Abdies R. Figueroa Ocasio*

Thursday, April 20, 2017

HORA	COMPañIA
8:00:00 AM	Aereochive

ASISTENTES/FIRMA

V. Ocasio

8:40 AM

ay, April 04, 2017

ASISTENTES/FIRMA

Alejo Galletti Cossio
Roberto Cossio

ALEJO GALLETTI COSSIO
MCP - C&AP

ADRESA/C: INTELLIGENT@INTELLIGENT.COM
TEL: 787-246-8952
EMAIL: 100-4000000
WWW: INTELLIGENT.COM

Tuesday, April 04, 2017

HORA	COMPañIA
9:15:00 AM	Everyday Data

ASISTENTES/FIRMA

Everyday Data

Thursday, April 06, 2017

HORA	COMPañIA
8:00:00 AM	Avant Technology

ASISTENTES/FIRMA

Avant Technology (121) 2411111

ASUNTOS

Néftali Ojeda, MBA

787-525-9055

nojeda@smarthnetworkspx.com

Parque Industrial Vale Toletta
Calle Interoceánica
Estr. Miraflores 4A-4
Caguas, PR 00725



ay, April 04, 2017

ASISTENTES/FIRMA

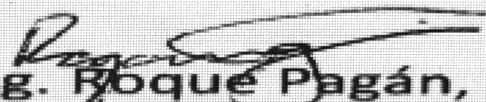
Néftali Ojeda
Roberto Cossio
Roberto Cossio

ASUNTOS

20 y 25 de abril de 2007

HORA	COMPañIA
8:00:00 AM	Smart Technologies

ASISTENTES/FIRMA


Ing. Roque Pagán, Presider

ASUNTOS

Nos reunimos varias veces. En las reuniones

Asistieron Javier Gonzalez y el Lcdo. Cristobal




Exhibit 2

Consortium Emails with Aerohive Networks dated April 19, 2017

Gervasio Malave: SECSJ

From: Assistant Adm Erate <erate.sec@gmail.com>
Sent: Wednesday, April 19, 2017 11:20 AM
To: 'Carmen Villegas'
Subject: RE: PCS Quote for CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN

He estado muy ocupado que no me percaté que era un conferencia telefónica. Entendía que iba hacer personalmente. Les pregunto: ¿Ustedes tienen oficinas en Puerto Rico?, porque, unas de las condiciones es que tengan presencia en la Isla. Yo prefiero que el contacto sea personal.

Espero que no haya ningún inconveniente con esto.

Gracias,

Ana Cortes Crespo

Superintendent of Education and Federal Funds & ERate

And / Or

Gervasio Malavé

ERate Assistant Coordinator

Consorcio de Escuelas Católicas de San Juan Superintendencia de Escuelas Católicas

789-B Calle Jaime Drew
Urb. Los Maestros
San Juan, P.R. 00923-2400
Tel: (787) 731-6100 / Fax: (787) 790-6920
e-Mail: erate.sec@gmail.com

From: Carmen Villegas [<mailto:cvillegas@aerohive.com>]
Sent: Wednesday, April 19, 2017 10:21 AM
To: Assistant Adm Erate
Subject: RE: PCS Quote for CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN

Saludos,

Genial, enviaré la invitación del calendario con las credenciales de GoTo Meeting para mañana a las 8:00 am. Tienes un correo electrónica para el Sr. Julio Rodrigue? El se puede conectar a la llamada de donde este el.

Gracias,

Carmen

From: Assistant Adm Erate [<mailto:erate.sec@gmail.com>]
Sent: Wednesday, April 19, 2017 5:39 AM

To: Carmen Villegas <cvillegas@aerohive.com>

Subject: RE: PCS Quote for CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN

Saludos,

Tengo disponible mañana a las 8:00 am. La otra persona que colabora con este servidor es el Sr. Julio Rodriguez. No sé si él pueda estar en la reunión de mañana, pero, cualquier pregunta que no pueda que yo no le pueda contestar lo podemos llamar.

Ana Cortes Crespo

Superintendent of Education and Federal Funds & ERate

And / Or

Gervasio Malavé

ERate Assistant Coordinator

Consorcio de Escuelas Católicas de San Juan Superintendencia de Escuelas Católicas

789-B Calle Jaime Drew

Urb. Los Maestros

San Juan, P.R. 00923-2400

Tel: (787) 731-6100 / Fax: (787) 790-6920

e-Mail: erate.sec@gmail.com

From: Carmen Villegas [<mailto:cvillegas@aerohive.com>]

Sent: Tuesday, April 18, 2017 1:53 PM

To: Assistant Adm Erate; 'Rob Boush'

Cc: 'Jim Conte'; Luis Rodriguez

Subject: RE: PCS Quote for CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN

Gracias por su respuesta, le agradecemos su tiempo. Nos gustaría mostrarle nuestra solución antes de tomar una decisión sobre esta aplicación.

¿Tiene una buena fecha / hora en la que podemos repasar esta información juntos?

Mi horario está abierto para Abril y Mayo. Avísame cuando podamos encontrarnos.

Si hay alguien más en el equipo técnico con el que debería estar hablando, ¿podría indicarme su camino?

Gracias,

Carmen

From: Assistant Adm Erate [<mailto:erate.sec@gmail.com>]

Sent: Tuesday, April 18, 2017 4:44 AM

To: 'Rob Boush' <rboush@pcsusa.net>

Cc: 'Jim Conte' <jconte@pcsusa.net>; Carmen Villegas <cvillegas@aerohive.com>

Subject: RE: PCS Quote for CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN

Recibido.

Las mismas serán evaluadas. Nos mantendremos en comunicación.

Gracias.

From: Rob Boush [<mailto:rboush@pcsusa.net>]
Sent: Friday, April 14, 2017 12:03 PM
To: erate.sec@gmail.com
Cc: Jim Conte; Carmen Villegas
Subject: PCS Quote for CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN

Good Afternoon,

Attached is the PCS quote for your Form 470. Please let us know if you have any questions and thank you.

Rob Boush

Sales Support

Office: 305-667-0633

Email: rboush@pcsusa.net

Website: www.pcsusa.net



Gervasio Malave: SECSJ

Subject: Aerohive Networks y CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN
Location: Marcar: United States: +1 (312) 757-3136 *****219-486-837
Start: Thu 4/20/2017 8:00 AM
End: Thu 4/20/2017 9:00 AM
Show Time As: Tentative
Recurrence: (none)
Meeting Status: Not yet responded
Organizer: Carmen Villegas

Saludos,

Esperamos conectar mañana, Abril 20, 2017, a las 8:00 am. A continuación se muestran las credenciales para que nos conectamos a través de la reunión de GoTo Meeting.

Únase a mi reunión desde su computadora, tableta o teléfono inteligente.

<https://global.gotomeeting.com/join/219486837>

También puede marcar utilizando su teléfono.

Marcar: +1 (312) 757-3136

Código de acceso: 219-486-837

Carmen Villegas

Opportunity Development Representative

Office: 408-510-6119 | E-mail: cvillegas@aerohive.com



Exhibit 3

USAC Intent to Deny Notification

From: Corlette, Natasha [<mailto:Natasha.CORLETTE@sl.universalservice.org>]
Sent: Tuesday, October 17, 2017 1:58 PM
To: Gervasio Malave: SECSJ <gmalave@secsj.net>; Julio Rodriguez-eRate Assistant <consorcioerate@gmail.com>
Cc: Gervacio Malavé (SEC-SJ) <erate.sec@gmail.com>; Corlette, Natasha <Natasha.CORLETTE@sl.universalservice.org>
Subject: RE: Hurricane Irma RE: BEN 16020045, CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN

Good Afternoon,

Both applications are recommended for denial due to multiple competitive bidding violations. I sent the Intent to Deny Notification via EPC today.

Consortio Colegios Catolicos Arquidiocesis De San Juan (BEN 16020045) Intent to Deny Notification

1. 471 # 171043183 FRN 1799097868

A. *Issue*

We have completed our review and determined that FRN 1799097868 will be denied because FCC Form 470 Number 170075364 that you have listed as posting for the services requested on your FCC Form 471 was not posted for the requested **VOIP** service type. For additional information on the competitive bidding process, see: <http://www.usac.org/sl/applicants/step01/default.aspx>.

If the entire FRN should not be denied and you have alternative information to support your position, please provide the supporting documentation. If you would like to provide any additional explanation to support your position, type your explanation and attach the explanation and/or documentation into your response by using the Add Document button. If you agree with the proposed action, click the "Submit" button to clear this item from your Pending Inquiries.

B. FRN 1799097868 will be denied because during the Selective Review you failed to provide all VOIP Voice bids associated with this funding request. FCC Rules require applicants to retain all documentation regarding the competitive bidding process for a period of ten years after the last date of service received. For further information regarding document retention, please visit the USAC website at <http://usac.org/sl/tools/document-retention.aspx>.

C. Based on the documentation provided during the Selective Review, FRN 1799097868 will be denied for failing to demonstrate that price was the primary criteria in the vendor selection process. Documentation demonstrating how the vendor evaluation was conducted was not provided during the Selective Review. FRN 1799097868 is for VOIP Voice Services and the evaluations provided were for Internet Services and Internal Connections. Without any

documentation demonstrating how the vendor evaluation was conducted, USAC is unable to determine that price was the primary factor in the selection of the vendor. Further it is not apparent that the selection of your vendor was in accordance with the criteria stated in your Selective Review responses since documentation demonstrating how the vendor evaluation was conducted was not provided. For additional guidance on vendor selection, please refer to the USAC website at <http://www.usac.org/sl/applicants/step02/default.aspx>.

2. 471 # 171043183 FRN 1799097609 & FRN 1799097868 and 471 # 171043331 FRN 1799097962
 - A. Based on the documentation you provided during the Selective Review, FRN 1799097609, FRN 1799097868 and FRN 1799097962 will be denied because you did not make bidders aware of the minimum requirements needed for their bid to be considered for evaluation. Aerohive was disqualified due to not having a local presence. However, the "local presence" requirement was not posted on the 470 and /or RFP. Also, Intelligent Solutions and WorldNet were disqualified for "fraud."
 - B. Based on the documentation you provided during the Selective Review, FRN 1799097609 & FRN 1799097962 will be denied because you did not properly consider all bids received in response to the FCC Form 470 and/or RFP during your evaluation process.

FRN 1799097609 & FRN 1799097962 will be denied because during the Selective Review you failed to provide all bids associated with this funding request. On April 25, 2017, SKYTEC submitted a proposal with Aerohive Hardware. The skytec proposal wasn't evaluated OR submitted to USAC. FCC Rules require applicants to retain all documentation regarding the competitive bidding process for a period of ten years after the last date of service received. For further information regarding document retention, please visit the USAC website at <http://usac.org/sl/tools/document-retention.aspx>.

If you disagree with our determination and you have alternative information, please provide the supporting documentation.

If you fail to respond to this email within 7 days, we will perform the action(s) listed above.

Thank you,

Natasha Corlette

Case Management Special Compliance - USAC SLP

30 Lanidex Plaza West | Parsippany, NJ 07054

T: 973.581.6711 | F: 973.599.6552

NatashaCorlette@sl.universalservice.org

Exhibit 4

Consortium Response to USAC's Intent to Deny Notification



ARQUIDIÓCESIS DE SAN JUAN DE PUERTO RICO
SUPERINTENDENCIA DE ESCUELAS CATÓLICAS

Los Maestros 789-B Jaime Drew • San Juan, PR 00923-2400 Tel. (787) 731-6100 • Fax: (787) 731-0000



November 27, 2017

Natasha Corlette
Case Management Special Compliance - USAC SLP
30 Lanidex Plaza West | Parsippany, NJ 07054
T: 973.581.6711 | F: 973.599.6552

Dear Ms. Corlette:

Recently, we received the following communication regarding our fund request. We have answered your concerns in this document, next to the issues presented.

[1] FORM 471 # 171043183 FRN 1799097868

Answer for presented VOIP Issues:

We followed a complete evaluation process for the assessment of the bids that were received. However, after a careful review by the consortium, it was determined that only two (2) of our participating schools were interested in acquiring VOIP services. Therefore, we concluded that those two (2) schools should consider acquiring VOIP services outside of the eRate funding program since such service is phasing down of E-rate support.

In regards to this matter, we have no objection to USAC eliminating FRN 1799097868 for VOIP Services from our application 471 # 171043183.

**[2] FORM 471 # 171043183 FRN 1799097609 &
FORM 471 # 171043331 FRN 1799097962**

Answers for presented issues:

Point A. In this part of the communication your make reference to three (3) main items:

- (1) "...you did not make bidders aware of minimum requirements..."
- (2) "...Aerohive was disqualified due to not having a local presence."
- (3) "...Intelligent Solutions and WorldNet were disqualified for "fraud"."

Related to item (1):

"...you did not make bidders aware of minimum requirements..."

The narrative of our form 470 states that: *"This Form 470 is requesting bids for Internet Service and all allowable services for our participating schools. All questions about this Form 470 must be directed to Mr. Gervacio Malave and/or Mr. Julio Rodriguez at the Consortium Offices and can be reached by email at erate.sec@gmail.com or by phone during business hours Monday through Thursday from 8am to 3pm AST at*

(787) 731-6100. Individual meetings with any prospective service provider can be arranged to answer any questions needed in order to submit a bid”.

We want to state that:

- All the providers that submitted bids contacted us and we exchanged the required information prior to submitting their proposals.
- We coordinated meetings with each interested provider.
- On April 4, 2017 we held meetings with Smart Networks, Everyday Data, Intelligent Solutions and Smart Technologies
- Aerohive was scheduled to send a representative on April 4, 2017 at 10:00 am that did not show up.
- On April 6, 2017 we held a meeting with Avant Technologies
- The main purpose for all the meetings was to answer specific questions in order to provide information equally and fairly to all the companies.

Related to item (2):

“...Aerohive was disqualified due to not having a local presence.”

We want to establish that:

- After Aerohive not showing for their scheduled meeting a follow up phone call to them revealed that, they were based on the mainland without any local presence. Is at that moment that we stressed the importance of having local personnel to handle troubleshooting, installations, setup and equipment warranty services. Moreover, the past Hurricane María showed us that our conditions as an Island do not provide for the typical mainland support after a catastrophe. During that event 100% of Puerto Rico was without power, telecommunications were down, roads blocked, and flying in or out of the island was almost impossible. During such period our current Provider had to visit 3 to 4 times the schools in order to contact someone and assess the damages. We are still trying to recuperate from it at the time of this communication.
- On April 20, 2017, we had a conference call with Mr. Luis Rodríguez from Aerohive related to their internal process. It was during this last conference call with Aerohive that we were informed that they didn't have a solution in the near future for having local presence.
- No formal bids were received from Aerohive. **[As no formal bid was received from them, it was perhaps a mistake to have included them in our worksheet.]**
- On April 25, 2017, John Ramos [john@skytecmail.com] from SKYTEC sent an email with what they called “proposal/quote”. The information included with the email contained several datasheets of Aerohive products, warranty information, and a quote for equipment and subscriptions making reference to a product quote as “SKYTEC CATEGORY TWO SERVICE REQUESTED PROPOSAL”. No other proposal for CATEGORY ONE OR TWO SERVICES were received from SKYTEC nor Aerohive. The limited information that was received was reviewed. **[We are including the information in question. Said information was erroneously excluded from our previous communication with you due to clerical error from our part]**

Related to item (3):

“...Intelligent Solutions and WorldNet were disqualified for “fraud”.”

We want to establish that:

- Is our best recollection we did not make reference to “fraud”. In the case that we got lost in translation we clarify that.
- Both proposals were evaluated in our initial phase of the process.

- Is during this initial process that we evaluate any references included by the prospects. This helps us to establish, within certain assurance level, the capacity to provide the services, the quality and the typical time to respond by verifying with currents or past clients. Is important to point out that we have 30+ entities spread in the metro area of the Island and we needed to assess the capabilities to handle the amount of installations and servicing.
- While contacting the provided references for Intelligent Solutions and Worldnet we received contradicting servicing information in regards to who was the provider or if they were providers for them at all. We completed the process of contacting the references. However, there were enough concerns about the information provided. The actual capacity, quality and servicing was not supported by the references they provided. With this information on hand the evaluating committee could not verify important aspects of their respective proposals but, they were not disqualified without evaluation.
- Intelligent Solutions and Worldnet proposals were evaluated separately.
- Important aspects and representations contained in the proposals of each company were not supported by their references.

Point B. In this part of the communication your make reference to three (3) main items.

(1) “...you did not properly consider all bids...”

(2) “...you failed to provide all bids.”

(3) “...The Skytec proposal wasn’t evaluated OR submitted to USAC.”

Related to item (1):

“...you did not properly consider all bids...”

We want to establish that:

- As stated in our Fofrm470 narrative all the information requested was obtained by phone, email or personally (by meeting).
- All the bids that were received were evaluated. Furthermore, all the companies that contacted us were scheduled for separate Q&A meetings. All the questions and requested information were addressed as per USAC rules and regulations.
- The reference information presented as part of the bids was collaborated for all the companies that presented such information.
- We included documentation related to the process, meetings, emails, and other relevant information.

Related to item (2) and item (3):

“...you failed to provide all bids.”

“...The Skytec proposal wasn’t evaluated OR submitted to USAC.”

As stated before, while referring to Aerohive on April 25, 2017, John Ramos [john@skytecmail.com] from SKYTEC sent an email with what they called “proposal/quote”. The information included with the email contained several datasheets of Aerohive products, warranty information, and a quote for equipment and subscriptions making reference to a product quote as “SKYTEC CATEGORY TWO SERVICE REQUESTED PROPOSAL”. No other proposal for CATEGORY ONE OR TWO SERVICES were received from SKYTEC nor Aerohive. The limited information that was received was evaluated. Aerohive by itself didn’t provided any bid. **[We are including the information in question. Said information was erroneously excluded from our previous communication with you. Obviously was a clerical error from out part]. All other bids information was provided to USAC.**

Is our best understanding that we have provided all the requested information in regards of the issues that were pointed out. If you deem necessary any additional information, clarification or documentation please do not hesitate to contact us. We are committed to comply with all aspects of your review process in order to have

access to the current fiscal year funding and to be able to apply for the Hurricane Relief funding. As you may know, Hurricane María heavily damaged our Island and our schools were not the exception. Current fiber optics infrastructure was heavily impacted and we need to provide alternatives to our Consortium. Internet access is very important for our schools.

Once again thank you for your time and effort. We apologize for the delay.

I certify that the above information is correct.



Ana Cortés-Crespo
Superintendent Consortium Catholic Schools
Archdiocese of San Juan

Exhibit 5

Consortium Scoring Worksheet

PROPUESTAS DE:

PROPUESTAS DE:		PUNTUACIONES DE LOS MIEMBROS DEL COMITÉ EVALUADOR							TOTAL GLOBAL	COMENTARIO
		JULIO RODRIGUEZ	GERVASIO MALAVE	RAUL NIEVES	ANA CORTES	WANDA QUILES	MELISSA TORRES CAPUTI			
1	Company Name: SMART TECHNOLOGIES	78%	77%	77%	75%	75%	75%	457%		***GANADOR***
2	Company Name: SMART NETWORKS	73%	75%	74%	74%	74%	74%	444%		PERDEDOR
3	Company Name: EVERYDAY DATA	40%	45%	40%	40%	40%	40%	245%		PERDEDOR
4	Company Name: AVANT TECHNOLOGIES	30%	35%	30%	27%	30%	30%	182%		PERDEDOR
5	Company Name: WORLNET	0%	0%	0%	0%	0%	0%	0%		CONFLICTO CON INTELLIGENT SOLUTIONS
6	Company Name: INTELLIGENT SOLUTIONS	0%	0%	0%	0%	0%	0%	0%		CONFLICTO CON WORLNET
7	Company Name: AEROCHIVE	0%	0%	0%	0%	0%	0%	0%		COMPañIA ES DE LA FLORIDA, USA
		221%	232%	221%	216%	219%	219%	0%		

Attachment 2

Universal Service Administrative Company's Revised Funding Commitment
Decision Letter denying the Consortium's FY2017 Appeal, dated August 1, 2018

Revised Funding Commitment Decision Letter

Funding Year 2017

Contact Information:

Ana Cortes
CONSORCIO COLEGIOS CATOLICOS
ARQUIDIOCESIS DE SAN JUAN
789-B CALLE JAIME DREW URB. LOS
MAESTROS
SAN JUAN, PR 00923
eratedirector@gmail.com

BEN: 16020045**Post Commitment Wave:** 24

Totals

Original Commitment Amount	\$0.00
Revised Commitment Amount	\$0.00

What is in this letter?

Thank you for submitting your post-commitment request for Funding Year 2017 Schools and Libraries Program (E-rate) funding. Attached to this letter, you will find the revised funding statuses and/or post commitment changes to the original Funding Commitment Decision Letter (FCDL) you received. Below are the changes that were made:

- Appeals
- Appeals

The Universal Service Administrative Company (USAC) is providing this information to both the applicant(s) and the service provider(s) so that all parties are aware of the post-commitment changes related to their funding requests and can work together to complete the funding process for these requests.

Next Steps



BEN Name: CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN

BEN: 16020045

Post Commitment Wave: 24

1. **File the FCC Form 486**, Service Confirmation and Children's Internet Protection Act (CIPA) Certification Form, for any FRNs included in this RFCDL, if you have not already done so. Please review the CIPA requirements and file the form(s).
 - o **If USAC approved funding on an FRN in your original FCDL**, the deadline to submit the FCC Form 486 is 120 days from the date of the original FCDL or from the service start date (whichever is later).
 - o **If a new FRN was created for this RFCDL or funding was not approved on an FRN in your original FCDL but is approved in this RFCDL**, the deadline to submit the FCC Form 486 is 120 days from the date of this RFCDL or from the service start date (whichever is later).
2. **Invoice USAC**, if you or your service provider have not already done so. Work with your service provider(s) to determine if your bills will be discounted or if you will request reimbursement from USAC after paying your bills in full.
 - **If you (the applicant) are invoicing USAC:** You must pay your service provider(s) the full cost for the services you receive and file the [FCC Form 472](#), the Billed Entity Applicant Reimbursement (BEAR) Form, to invoice USAC for reimbursement of the discounted amount.
 - **If your service provider(s) is invoicing USAC:** The service provider(s) must provide services, bill the applicant for the non-discounted share, and file the [FCC Form 474](#), the Service Provider Invoice (SPI) form, to invoice USAC for reimbursement for the discounted portion of costs. Every funding year, service providers must file an [FCC Form 473](#), the Service Provider Annual Certification Form, to be able to submit invoices and to receive disbursements.
 - **To receive an invoice deadline extension, the applicant or service provider** must request an extension on or before the last date to invoice. **If you anticipate, for any reason, that invoices cannot be filed on time**, USAC will grant a one-time, 120-day invoice deadline extension if timely requested.

How to Appeal or Request a Waiver of a Decision

You can appeal or request a waiver of a decision in this letter **within 60 calendar days** of the date of this letter. Failure to meet this deadline will result in an automatic dismissal of your appeal or waiver request.

Note: The Federal Communications Commission (FCC) will not accept appeals of USAC decisions that have not first been appealed to USAC. However, if you are seeking a waiver of E-rate program rules, you must submit your request to the FCC and not to USAC. USAC is not able to waive the E-rate program rules.

- **To submit your appeal to USAC**, visit the Appeals section in the [E-rate Productivity Center \(EPC\)](#) and provide the required information. USAC will reply to your appeal submissions to confirm receipt. Visit USAC's [website](#) for additional information on submitting an appeal to USAC, including step-by-step instructions.



BEN Name: CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN
BEN: 16020045
Post Commitment Wave: 24

- **To request a waiver of the FCC's rules or appeal USAC's appeal decision**, please submit it to the FCC in proceeding number CC Docket No. 02-6 using the [Electronic Comment Filing System](#) (ECFS). Include your contact information, a statement that your filing is a waiver request, identifying information, the FCC rule(s) for which you are seeking a waiver, a full description of the relevant facts that you believe support your waiver request and any related relief, and any supporting documentation.

For appeals to USAC or to the FCC, be sure to keep a copy of your entire appeal, including any correspondence and documentation, and provide a copy to the affected service provider(s).

Obligation to Pay Non-Discount Portion

Applicants are required to pay the non-discount portion of the cost of the eligible products and/or services to their service providers. Service providers are required to bill applicants for the non-discount portion of costs for the eligible products and/or services. The FCC stated that requiring applicants to pay the non-discounted share of costs ensures efficiency and accountability in the program. If using the BEAR invoicing method, the applicant must pay the service provider in full (the non-discount plus discount portion) **before** seeking reimbursement from USAC. If using the SPI invoicing method, the service provider must first bill the applicant **before** invoicing USAC.

Notice on Rules and Funds Availability

The applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program and the FCC's rules. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds.



BEN Name: CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN

BEN: 16020045

Post Commitment Wave: 24

Revised Funding Commitment Decision Overview

Funding Year 2017

Funding Request Number (FRN)	Service Provider Name	Request Type	Revised Committed	Review Status
1799113684	Smart Technologies Corporation	Appeals	\$0.00	Denied
1799113630	Smart Technologies Corporation	Appeals	\$0.00	Denied



BEN Name: CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN

BEN: 16020045

Post Commitment Wave: 24

Post Commitment Request Number: 109437	Post Commitment Request Type: Appeals	Post Commitment Decision: Denied
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FRN: 1799113684	Service Type: Data Transmission and/or Internet Access	Original Status: Denied	Revised Status: Denied
FCC Form 471: 171050030			

Dollars Committed			
Monthly Cost		One-Time Cost	
Months of Service	12		
Total Eligible Recurring Charges	\$137,100.00	Total Eligible One Time Charges	\$29,800.00
Total Pre-Discount Charges		\$166,900.00	
Discount Rate		83.00%	
Revised Committed Amount		\$0.00	

Dates	
Service Start Date	7/1/2017
Contract Expiration Date	6/30/2018
Contract Award Date	5/3/2017
Service Delivery Deadline	9/30/2018
Expiration Date (All Extensions)	6/30/2022

Service Provider and Contract Information	
Service Provider	Smart Technologies Corporation
SPIN (498ID)	143037543
Contract Number	
Account Number	
Establishing FCC Form 470	170075364

Consultant Information	
Consultant Name	
Consultant's Employer	
CRN	

Revised Funding Commitment Decision Comments:
--

Post Commitment Rationale:

Based on the documentation provided Consorcio Colegios Catolicos Arquidiocesis de San Juan (the Consortium) during the Selective Review, the Consortium did not consider all of the bids received in response to the FCC Form 470 and/or RFP during your bid evaluation process. The consortium bid scoring worksheet did not contain a score for each vendor that provided a response. Therefore, the FRN was denied because the winning vendor was not selected in accordance with the Consortium bid evaluation process. Additionally, FCC Rules require applicants to retain all documentation for ten years regarding the competitive bidding process. The FRN was also denied for failure to provide documentation of evidence that bidders were made aware of the minimum requirements needed for their



BEN Name: CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN

BEN: 16020045

Post Commitment Wave: 24

bid to be considered for evaluation. In your appeal, you did not demonstrate that USAC's decision was incorrect. Consequently, your appeal is denied. | FCC rules require that the schools, libraries, and any consortium that includes schools or libraries shall retain all documents related to the application for, receipt, and delivery of supported services for at least 10 years after the latter of the last day of the applicable funding year, or the service delivery deadline for the funding request. Any document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. See 47 C.F.R. sec. 54.516(a)(1). Service providers shall retain documents related to the delivery of supported services for at least 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. See 47 C.F.R. sec. 54.516(a)(2). Schools, libraries, consortia, and service providers are further required to produce such records upon request of any representative (including any auditor) appointed by a state education department, the Administrator, the FCC or any local, state or federal agency with jurisdiction over the entity. See 47 C.F.R. sec. 54.516(b). | FCC rules require that, except under limited circumstances, an eligible school, library and consortium that includes an eligible school or library shall seek competitive bids for all services eligible for support. See 47 C.F.R. sec. 54.503(b). Applicants are required to carefully consider all bids received, with price being the primary factor, before selecting a vendor, entering into a legally binding agreement or signing a contract, and signing and submitting an FCC Form 471. See 47 C.F.R. secs. 54.511(a), 54.503(c)(2)(ii)(B), 54.504(a)(1)(ix). The FCC also noted that several additional factors should be considered by the applicant in determining which service provider meets their needs most effectively and efficiently. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 97-157 para. 481 (rel. May 8, 1997). These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd 10095, FCC 97-246 para. 9 (rel. Jul. 10, 1997).



BEN Name: CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN

BEN: 16020045

Post Commitment Wave: 24

Post Commitment Request Number: 109437	Post Commitment Request Type: Appeals	Post Commitment Decision: Denied
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FRN: 1799113630	Service Type: Internal Connections	Original Status: Denied	Revised Status: Denied
FCC Form 471: 171049992			

Dollars Committed			
Monthly Cost		One-Time Cost	
Months of Service	12		
Total Eligible Recurring Charges	\$0.00	Total Eligible One Time Charges	\$136,485.00
Total Pre-Discount Charges		\$136,485.00	
Discount Rate		81.00%	
Revised Committed Amount		\$0.00	

Dates	
Service Start Date	7/1/2017
Contract Expiration Date	6/30/2018
Contract Award Date	5/3/2017
Service Delivery Deadline	9/30/2018
Expiration Date (All Extensions)	6/30/2022

Service Provider and Contract Information	
Service Provider	Smart Technologies Corporation
SPIN (498ID)	143037543
Contract Number	
Account Number	
Establishing FCC Form 470	170075364

Consultant Information	
Consultant Name	
Consultant's Employer	
CRN	

Revised Funding Commitment Decision Comments:

Post Commitment Rationale:

Based on the documentation provided Consorcio Colegios Catolicos Arquidiocesis de San Juan (the Consortium) during the Selective Review, the Consortium did not consider all of the bids received in response to the FCC Form 470 and/or RFP during your bid evaluation process. The consortium bid scoring worksheet did not contain a score for each vendor that provided a response. Therefore, the FRN was denied because the winning vendor was not selected in accordance with the Consortium bid evaluation process. Additionally, FCC Rules require applicants to retain all documentation for ten years regarding the competitive bidding process. The FRN was also denied for failure to provide documentation of evidence that bidders were made aware of the minimum requirements needed for their bid to be considered for evaluation. In your appeal, you did not demonstrate that USAC's decision was incorrect.



BEN Name: CONSORCIO COLEGIOS CATOLICOS ARQUIDIOCESIS DE SAN JUAN

BEN: 16020045

Post Commitment Wave: 24

Consequently, your appeal is denied. FCC rules require that the schools, libraries, and any consortium that includes schools or libraries shall retain all documents related to the application for, receipt, and delivery of supported services for at least 10 years after the latter of the last day of the applicable funding year, or the service delivery deadline for the funding request. Any document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. See 47 C.F.R. sec. 54.516(a)(1). Service providers shall retain documents related to the delivery of supported services for at least 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. See 47 C.F.R. sec. 54.516(a)(2). Schools, libraries, consortia, and service providers are further required to produce such records upon request of any representative (including any auditor) appointed by a state education department, the Administrator, the FCC or any local, state or federal agency with jurisdiction over the entity. See 47 C.F.R. sec. 54.516(b). FCC rules require that, except under limited circumstances, an eligible school, library and consortium that includes an eligible school or library shall seek competitive bids for all services eligible for support. See 47 C.F.R. sec. 54.503(b). Applicants are required to carefully consider all bids received, with price being the primary factor, before selecting a vendor, entering into a legally binding agreement or signing a contract, and signing and submitting an FCC Form 471. See 47 C.F.R. secs. 54.511(a), 54.503(c)(2)(ii)(B), 54.504(a)(1)(ix). The FCC also noted that several additional factors should be considered by the applicant in determining which service provider meets their needs most effectively and efficiently. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 97-157 para. 481 (rel. May 8, 1997). These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd 10095, FCC 97-246 para. 9 (rel. Jul. 10, 1997).